

**TOWN OF FOUNTAIN HILLS  
MINUTES OF THE EXECUTIVE AND REGULAR SESSION OF THE  
FOUNTAIN HILLS TOWN COUNCIL  
May 21, 2009**

• **CALL TO ORDER**

Mayor Schlum called the Executive Session to order at 5:06 p.m. in the 2<sup>nd</sup> floor Fountain Conference Room at Town Hall.

**AGENDA ITEM #1 – ROLL CALL AND VOTE TO GO INTO EXECUTIVE SESSION: PURSUANT TO A.R.S. §38-431.03.A(1) DISCUSSION OR CONSIDERATION OF EMPLOYMENT, ASSIGNMENT, APPOINTMENT, PROMOTION, DEMOTION, DISMISSAL, SALARIES DISCIPLINING OR RESIGNATION OF A PUBLIC OFFICER, APPOINTEE OR EMPLOYEE OF ANY PUBLIC BODY, (SPECIFICALLY, THE TOWN MANAGER'S EVALUATION).**

**ROLL CALL** – Present for roll call were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Contino, Councilmember Leger, Councilmember Brown, Councilmember Hansen, Vice Mayor Archambault and Councilmember Dickey. Town Manager Rick Davis, Town Attorney Andrew McGuire and Town Clerk Bev Bender were also present.

Vice Mayor Archambault **MOVED** to convene the Executive Session at 5:06 p.m. and Councilmember Leger **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

Without objection the Executive Session adjourned at 6:25 p.m.

**AGENDA ITEM #2 – RETURN TO REGULAR SESSION**

\* **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Schlum called the meeting to order at 6:30 p.m. in the Council Chambers.

\* **INVOCATION** – Pastor Paul Soderquist, Fountain Hills Presbyterian Church

\* **ROLL CALL**

Present for roll call were the following members of the City Council: Mayor Schlum, Councilmember Contino, Councilmember Leger, Councilmember Brown, Councilmember Hansen, Vice Mayor Archambault and Councilmember Dickey. Town Manager Rick Davis, Town Attorney Andrew McGuire and Town Clerk Bev Bender were also present.

\* **MAYOR'S REPORT**

The Mayor formally welcomed newly appointed Councilmember Brown. He added that last week the Town Manager Rick Davis had celebrated his birthday and this week Councilmember Leger would celebrate his. He added that Councilmember Brown's birthday was next month.

**SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS**

- (i) **THE MAYOR WILL READ A PROCLAMATION RECOGNIZING THE VFW POST 7507 FOR CONDUCTING THEIR ANNUAL MEMORIAL DAY "BUDDY POPPY" FUNDRAISER ON MAY 22 AND MAY 23, 2009, FOR THE BENEFIT OF VETERANS' RELIEF.**

Mayor Schlum read a proclamation into the official record and stated that America was the land of freedom, preserved and protected willingly and freely by citizen soldiers. He added that the Red Poppy had been designated as a symbol of sacrifice of lives in all wars and proclaimed to all citizens of the community that the Veterans of Foreign Wars Post 7507 were to be commended for conducting their annual Memorial Day “Buddy Poppy” fundraiser on May 22 and May 23, 2009 for the benefit of veterans’ relief.

**ii) PRESENTATION BY DR. KIRK A. SMITH, PhD, MARICOPA COUNTY VECTOR CONTROL, REGARDING WEST NILE VIRUS AWARENESS.**

Dr. Kirk Smith, with the Maricopa County Vector Control division addressed the Council and citizens relative to this agenda item and noted that the division provides mosquito eating fish free to the public for use in ponds, stock tanks or any permanent body of water a homeowner might have. He added that the division educated individuals and citizen groups on mosquito reducing techniques they could use around their home or property to eliminate mosquito breeding through the use of pamphlets, neighborhood meetings and presentations. He encouraged citizens to visit the division’s website (<http://www.maricopa.gov/EnvSvc/VectorControl>) and said that the site provided information to citizens on ways to reduce rodent, fly and bee populations on people’s properties.

Discussion ensued relative to surveillance activities during 2008; the fact that over 500 traps were set each week to monitor local mosquito populations throughout Maricopa County; treatment activities and the fact that the division inspected over 19,000 mosquito breeding sites and treated over 13,000 of these sites for active mosquito breeding; the fact that the Vector Control Division inspects over 3800 known mosquito breeding sites located throughout Maricopa County on a regular basis; known mosquito breeding sites; enforcement/complaint activities; the fact that 9,117 green pool complaints were investigated in 2008; locations and facilities that Maricopa County was not responsible for including schools, churches, commercial property, property owned and/or maintained by political subdivisions and gated communities and problem areas in Fountain Hills.

Councilmember Contino thanked Dr. Smith and his staff for the excellent service they provide. Dr. Smith also provided a number people could call with complaints – 602-506-6616.

**(iii) PRESENTATION BY KEN STROBECK, LEAGUE OF ARIZONA CITIES AND TOWNS EXECUTIVE DIRECTOR REGARDING REVENUE SHARING.**

Ken Strobeck, the Executive Director of the Arizona Cities and Towns, addressed the Council and citizens relative to the issue of revenue sharing. He noted that bills were not moving in the Senate and reported that President Burns had stated in the beginning of the session that he would not hear any non-budget bills until after the budget was approved. He stated that they had sent out State Shared Revenue estimates back in March and so far with their formula distributions for sales tax and income tax nothing had changed from that estimate. He reported that the estimates for sales tax were down 15% and the estimates for income taxes were down 15.5%, which represented almost a \$100 million decline compared to last year. He reported that the leadership in both the House and the Senate had said that they did not plan to “attack shared revenue” in balancing the budget and so far they had not seen any specific proposals in any of the budget bills. He added that part of that was due to the fact that they had attempted to do that last year with the \$17 million “grab” and they were sued over it and we won.

Discussion ensued relative to Proposition 108 required a 2/3rds vote for any change in the statutory distribution of monies to cities and towns that benefited the general fund; materials distributed by Mr. Strobeck, including one dealing with impact fees and the fact that the Homebuilders’ Association was making a very strong attempt to change the impact fee statutes and basically eliminate impact fees; another document that as distributed dealing with myth versus fact that countered arguments put out by the Homebuilders’ Association relative to impact fees; the misconception that existed that impact fees could be used by the State to balance their budget; and a variety of facts/data relative to this important issue. Mr. Strobeck also responded to a number of questions from the Mayor and members of the Council.

Mayor Schlum thanked all of the speakers for their comments.

### **CALL TO THE PUBLIC**

None.

### **CONSENT AGENDA**

**AGENDA ITEM #1 – CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM APRIL 28, MAY 4, MAY 5, AND MAY 7, 2009.**

**AGENDA ITEM #2 – CONSIDERATION OF APPROVING A LIQUOR LICENSE APPLICATION SUBMITTED BY HSIU-CHEN ROSS (HA HA CHINA RESTAURANT) LOCATED AT 11849 N. SAGUARO BOULEVARD, FOUNTAIN HILLS. THIS IS FOR A CLASS 12 LIQUOR LICENSE FOR A RESTAURANT.**

**AGENDA ITEM #3 – CONSIDERATION OF ASSIGNING NEWLY APPOINTED PARKS AND RECREATION COMMISSIONERS TO THE APPROPRIATE TERMS: NATALIE VARELA TO A TERM ENDING DECEMBER 2009 AND DON DOTY TO A TERM ENDING DECEMBER 2010.**

Councilmember Leger **MOVED** to approve the Consent Agenda as listed and Vice Mayor Archambault **SECONDED** the motion. A roll call vote was taken with the following results:

Councilmember Contino	Aye
Councilmember Hansen	Aye
Councilmember Leger	Aye
Councilmember Dickey	Aye
Mayor Schlum	Aye
Councilmember Brown	Aye
Vice Mayor Archambault	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

### **REGULAR AGENDA**

**AGENDA ITEM #4 – CONSIDERATION OF ACCEPTING A SCULPTURE TITLED, “QUACKERS” PAID FOR BY A PRIVATE DONOR AND APPROVING THE PLACEMENT OF THE PIECE IN A NEW LOCATION IN FOUNTAIN PARK. THIS NEW SITE TO BE ADDED TO THE LIST OF SITES SHOWN ON THE MAP OF PREVIOUSLY APPROVED SITES FOR THE DISPLAY OF PUBLIC ART IN FOUNTAIN PARK.**

Director of Parks and Recreation Mark Mayer addressed the Council relative to this agenda item.

Mayor Schlum thanked the donor for contributing the monies to purchase the piece of art by Mike Dwyer that the Council had seen at the prior meeting. He asked Mr. Mayer where the sculpture entitled “Quackers” would be placed.

Mt. Mayer referred to a map displayed in the Council Chambers and pointed to the actual proposed location for the art piece. He noted that the site was different than what had been proposed the last time and said that the piece would be located a little bit closer to where the playground equipment and the splash park were. He explained that it was the feeling of the Public Art Committee that they wanted to reconsider the location of the piece so that it would be a little closer to where the children were. He added that this particular piece was originally going to be purchased utilizing the Town’s 1% Public Art Fund but, as previously mentioned, a donor

through the Public Art Committee had stepped forward and the piece was now being donated to the Town rather than purchased through that fund.

Mayor Schlum commented on the large number of generous people who live in the Town of Fountain Hills and thanked them once again for contributing to the Town. He said that “Quackers” would be appreciated by everyone in the community and reiterated his and the Council’s appreciation to Mr. Dwyer. He also thanked the members of the Public Art Committee for their continuing efforts.

Councilmember Hansen **MOVED** to accept the donation of the sculpture “Quackers” and to approve the proposed placement of the piece and outlined by staff and Vice Mayor Archhambault **SECONDED** the motion.

In response to a question from the Mayor, Town Clerk Bev Bender advised that two citizens wished to speak on this item.

Jerry Miles (former Mayor) stated that since June 1<sup>st</sup> of last year this was the 12<sup>th</sup> piece of public art that had been financed in a number of different ways. He added that the fact that this piece was paid for by a private donor reflected the fact that the community was behind the Town’s public art program. He noted that this was the second time that someone had read an article in the paper, picked up the phone and said, “We’d like to pay for this piece.” He said that the Town had over 60 pieces of public art now in Town and hoped that, according to plan, they would be a major draw for people to visit the Town. He thanked all of the donors for their generosity and the Council for their support.

Jerry Kirkendall addressed the Council and stated that the donation of the piece was probably a very good thing. He noted that the newspaper had said that the Town was going to pay \$3,500 for it (approximate cost) and people were still upset about buying sculptures for \$25,000 and \$100,000 and that was one reason why they were never going to support a property tax – because they were afraid of how the money was going to be used. He said that they needed something like a public swimming pool for the kids more than this type of thing although donated art was fine, it was the art work that the Town had purchased that he and others had problems with. He cautioned the Council to be careful about what they were doing and said that there were a lot of very agitated people in Town who were upset with past sculpture purchases.

Mayor Schlum thanked the speakers for their comments and said that he believed that close to 95% of the art pieces in Town had either been donated or paid for out of the 1% Public Art Fund, which consisted of monies, specifically through construction, that were set aside for public art (a relatively new way of funding the purchase/placement of the art).

Mr. Mayer concurred with the Mayor’s comments and said that one of the greatest myths out there was that the Town buys all of this art. He confirmed that the Council, through the urging of the Public Art Committee, had set aside a fund specifically for that purpose – to purchase and install public art. He said that the pieces he brought before the Council were either donated pieces like the one before them tonight or pieces purchased through the 1% Public Art Fund and not through the General Fund.

Mayor Schlum thanked Mr. Mayer for the clarification and commented on the fact that the Public Art Fund was approximately one year old. He stated that there were pieces that the Town had purchased (two that were on the Town Hall grounds) but reiterated that approximately 95% of the pieces in the community had been donated by individuals. Mr. Mayer agreed and said that if the Council so desired he would be happy to compile that information and forward it on to the Council in addition to making it available for the public. He stated that it might help clarify the misconception that currently existed.

Mayor Schlum noted that the Town did pay for the insurance on the art pieces and said that usually installation of the pieces was also paid for by donors.

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #5 – CONSIDERATION OF A HILLSIDE PROTECTION EASEMENT (HPE) ABANDONMENT FOR 15305 E. SUNDOWN DRIVE, AT SUNRIDGE CANYON PARCEL “I”, LOT 38. CASE #HPE09-01.**

Planner Gene Slechta addressed the Council relative to this agenda item and advised that this was a request to consider the abandonment of a Hillside Protection Easement (HPE) on a residential lot. He stated the property location as Sunridge Canyon, Parcel I, and is Lot 38 at 15305 E. Sundown Drive and that it was currently undeveloped. The lot area was 17,375 square feet and included 2,400 square feet of HPE. He requested that the Council noted that 1,739.67 square feet of the 2,400 square feet was being requested to be abandoned. The HPE was located at the rear of the property and the final plat for the property was approved by the Town Council on October 16, 1997 and recorded with Maricopa County on December 5, 1997. He referred to Exhibit A, provided by the applicant's engineer and said that it showed the portion of the HPE that they were requesting that the Town abandon.

Mr. Slechta referred to a slide that depicted part of the recorded plat that defined the grant of perpetual easement for the Town of Fountain Hills and explained that the purpose of the easement was to preserve the natural topography and vegetation and did not allow the property owners to destroy easements without prior Town Council approval. He also discussed a slide that showed the applicant's lot beside neighboring properties and referred to the 20-foot easement. He said that the neighbors had developed and honored that easement. He added that the applicant planned to build a home on the property and the plans indicate that the home would not encroach on the HPE and also included plans for a pool, landscaping and retaining walls that would encroach on the HPE. The applicant's letter of request indicated that they wished to use this additional HPE area to enjoy Arizona's natural outdoor beauty and that the approval of the request would add to the aesthetics and value of the neighborhood. Mr. Slechta informed the Council that one member of the family was disabled and so they wish to enlarge the outdoor area.

Mr. Slechta referred to a slide that depicted the preliminary site plan and noted that the pool and the spa, planters and the retaining walls were encroaching on the HPE. He said that staff reviewed the Town Council minutes and the events leading up to the final plat and was aware of the fact that one of the Town's priorities was to preserve the Town's natural landscape. He noted that the existing homes in Parcel I had all honored the HPEs on their properties and the Sunridge Canyon Homeowners Association supports the preservation and their Architectural Review Committee had denied their plans. He said that the Council's packets contained information from the Association reinforcing their position relative to preserving the HPE. He added that staff's research indicated that the building plan has over 5,000 square feet more of livable area than the average home and parcel lot. He advised that staff's recommendation was to deny the applicant's request and the Sunridge Canyon Homeowners' Association said in their correspondence to him that they did not approve of the Town considering allowing the owner to begin disturbing these platted HPE areas.

Mr. Slechta stated that staff recommended the following motion: To move to deny the Hillside Protection Easement abandonment for 15305 E. Sundown Drive at Sunridge Canyon, Parcel I, Lot 38 – Case #HPE09-01. Mr. Slechta indicated his willingness to respond to questions from the Council. He noted that the applicant's son was present in the audience and would like the opportunity to address the Council.

Andre Chraca stated that he, his wife and son lived at 16540 E. El Lago and his parents were planning to relocate in Fountain Hills. He said that when they first purchased the property over ten years ago they were not planning on building such a large home but over the last couple of years, Mr. Chraca's aunt was diagnosed with Parkinsons and now required a full time caregiver. He stated that his parents cared for her and did not have the energy to do it themselves anymore so when they relocate to Fountain Hills they planned to have a full time live in caregiver work for them. He added that when he first met with the Homeowners' Association (Sunridge Canyon) and they had said in a formal letter that they were going to deny the request but the only reason they were going to do that was not because they were against it but because they wanted to leave the decision up to the Town Council to decide. He advised that his parents wanted to build a home that would accommodate his aunt and her caregiver and noted that the residence would contain an elevator and a large outdoor area because

gardening was always her hobby. He informed the Council that his parents were anxious to move to Fountain Hills and as soon as construction had been completed their plan was to move out here with his aunt. He stated that although his parents had not planned to build such a large structure, they would not be able to meet his aunt's needs in a smaller home. He added that if their request was not approved, they would possibly sell the property and buy somewhere else in Fountain Hills because they liked the Town so much. He urged the Council to approve the request and indicated his willingness to answer any questions.

Mayor Schlum thanked Mr. Chraca for speaking on behalf of his parents and thanked him for his remarks.

Mr. Chraca said that he knew that HPEs were "touchy subjects" but noted that there was 150 feet plus of hillside beyond where they would not encroach.

Mayor Schlum **MOVED** to deny the Hillside Protection Easement (HPE) abandonment for 15305 E. Sundown Drive at Sunridge Canyon, Parcel I, Lot 38 – Case #HPE09-01 and Councilmember Brown **SECONDED** the motion.

Councilmember Hansen asked who technically owned the HPE and Town Attorney Andrew McGuire responded that it was a dedication to the Town much like any other easement such as public utility easements. The fee title earth underneath it was what was owned by the property owner but it was encumbered by the HPE.

Councilmember Leger asked what percentage of the HPE would be encroached upon in the proposed plan and Mr. Slechta replied approximately 73% or 10% of the total property.

Councilmember Leger noted that Mr. Slechta spoke with the Architectural Committee as well as the Homeowners' Association and both entities had opposed the proposal. Mr. Slechta confirmed that he had spoken with the Management Association and a member of the Board and said that both groups were opposed to the granting of this request. He also confirmed that the Architectural Committee was opposed to the proposal.

Councilmember Leger commented that it appeared from the photographs provided by Mr. Slechta that the majority of the lots were built out on that particular street and it appeared that everyone had complied with restricting their building the HPE and again, Mr. Slechta concurred. Councilmember Leger said that approving the request could have an adverse effect on the people who had built within the restrictions. Mr. Slechta stated that this was one of the Association's concerns.

Councilmember Leger asked if there were any implications for Prop. 207, one way or the other and Mr. McGuire stated that he could not imagine that there would be any implications because the land was currently encumbered by the HPE so whatever value it had today would only increase if the HPE was removed.

Mayor Schlum clarified that the motion currently on the floor was to deny the applicant's request.

The motion **CARRIED UNANIMOUSLY (7-0).**

**AGENDA TEM #6 – PRESENTATION BY SWABACK PARTNERS AND CONSIDERATION OF THE TOWN'S FINANCIAL PARTICIPATION IN FUNDING PHASES 3, 4, AND 5 OF THE SWABACK PROPOSAL OF JANUARY 2009 FOR A MASTER PLAN OF THE TOWN'S DOWNTOWN AREA, IN AN AMOUNT NOT TO EXCEED \$39,176.**

Town Manager Rick Davis addressed the Council relative to this agenda item and said that they were there to consider the possible participation of the Town in a master planning process of the Town's downtown area. He stated that the Business Vitality Advisory Commission, under the direction of the Chamber, had been working with Swaback Partners in order to form this plan. He added that it was his understanding that Phases 1 and 2 had been completed and for the Council's consideration tonight was the Town's opportunity to participate in Phases 3, 4 and 5. He said that they were honored to have John Barnhardt and Vern Swaback of Swaback

Partners present in the audience and advised that they would highlight a presentation regarding the results of some of the concepts, principles and ideas that had evolved from this process up to this point. He added that he looked forward to the Council's consideration of the proposal to allow the Town to continue to work on this very worthwhile project.

Mayor Schlum welcomed Mr. Swaback to Fountain Hills and expressed appreciation to the Chamber for getting this process started.

Mr. Swaback explained that their process was simply one of working from the broadest generalities that they could down to whatever level of detail seems pertinent, especially in the pursuit of things that might happen sooner or better with the master planning visioning process. He said that they had made many, many drawings not only to explore on their own but to use them to inspire discussion and feedback from the various constituents, from the Chamber and the government officials as well as the general public (which they had been doing since the March 12<sup>th</sup> agreement was signed). He noted that task three was well underway and should soon be completed. He explained that most of the drawings had been to illustrate possibilities and said that they tried to keep feasibility and visioning in "different camps" because they are showing things that they are not asserting that they should be done that way nor do they wish for anyone else to assert that they should or should not be done that way (just dialogue). Mr. Swaback commented on the fact that no two cities were alike and said that there was something to be learned by looking at other examples such as lessons learned, mistakes made and sometimes achievements and surprises. He added that they had looked into the historical record of what the Town had been through during the last 40 years, some of which they were pleased to have participated in. He said that they started with an aerial photograph to get a 30,000-foot view of everything and then worked that into components (i.e. a pedestrian study and where were there good pedestrian linkages, where are they challenging and where would we want some that did not exist today. He referred to four circles and stated that they represent a 1,000-foot radius, which was about a five minute walk and noted that what they see is that the downtown area is quite dispersed, quite large, and they were not likely to create an environment in which one was walking throughout this whole study area.

Discussion ensued relative to traffic arteries going from minor neighborhood streets to arterials; on-street parking; taking the size of the designated downtown area and comparing it to other downtowns; compacted development and mixed uses of residential, retail, office space as well as what can the street do to enhance; the fact that people walk where it was pleasant to walk; the importance of separating the walking experience from parked cars using trellises, utilizing enticing window displays, etc.; branding (even in the independent commercial stores) and expending effort to make signs more decorative than just informational; destinations (places that may be anchor tenants, etc.); the fact that not anyone of these things is more important than the other and the importance of doing dozens of these things with great care; the fact that the Town could not exist on its own population base and that they had festivals and the Art Walk and various events that have wonderful potential; the fact that there should be more of an inviting atmosphere for visitors who want to come and shop or spend a day around the Fountain (a matter of attracting people from outside the community); and the "win-win" in that they know for certain that the places that everyone wants to visit most are those that are working well for the people who are already there.

Mr. Swaback advised that the three maps were simply three levels – minimal impact, moderate impact and a more major impact. He added that they were all within reason and could happen; they were variations on when was enough enough and how far did one go with the vision without losing relevance. He said that he would conclude his presentation with two observations: (1) The March 12<sup>th</sup> agreement had five tasks and they were well into task three. The way it had been put together (made drawings, shown how they might appear eventually) but they really had been made for the purpose of stimulating conversation. He said that that they did not produce a conclusion until task five and (2) just listening to the Council tonight he had thought about the difficulty of the visioning process. He said that it was creating urgency for something that had not really changed much in 40 years and for which the outcome would not change very much or very quickly. He questioned how they would create an urgency for something like that but added that it was extremely essential to do this otherwise they would all spend their time dealing with problems and become a "hit and miss target" for

someone who wanted to come into Town and do something or maybe not enough people come into Town to consider it because there was not sufficient magnetism to show that the Town had been thinking and the Town had something in mind. He added that the whole notion of a visioning process was to give some guidance to either the haste of development or the quality of development that might not otherwise occur if you were just waiting for random accretion to come and knock on your door. He thanked the Council for the opportunity to address them and indicated his willingness and his partner's willingness to respond to any questions.

Mayor Schlum thanked Mr. Swaback for his presentation and reiterated appreciation to the Chamber of Commerce for getting this process started and establishing a good working team and focus group. He commented on the one public presentation that was held and very well attended and said that he had received comments and questions from citizens, which would be consistent with the visioning process. He stated that the Council had held their Work Study Session last week and some of the Councilmembers were relatively new to what had been going on. He noted that The Fountain Hills Times had been doing a good job reporting on the progress occurring as a result of the Chamber's leadership on this item.

Mayor Schlum stated that he was extremely pleased that Swaback Partners was interested in the community and noted that the company is among the best in the world in this particular field. He added that as far as timing the Town did not have a lot of building going on, a budget that was in decline and it was a time when everyone was forced to pause and he believed that was exactly the right time to consider things such as this visioning as well as inwardly looking at a variety of different things. He said that staff had been doing a good job with that internally (looking at the Town's structure and making some adjustments).

The Mayor added that for those who have lived in Town a long time and for those who were new here, they had a lot of vacant property in Town and they all had something in mind that they ultimately expected it to look like and if they did not plan and envision for what they would ultimately like to have as a community, things would just happen on that property at their own pace and at their own desire and it might not be what they want. He stated the opinion that the framework study portion of this was something he had heard the Town's Economic Development Administrator find great strength in – having something on the shelf, a vision for a developer to ultimately get their eye on and be interested in making a sizeable investment in.

In response to a question from Mayor Schlum, Town Clerk Bev Bender advised that six citizens who wished to address the Council relative to this agenda item.

Doug Schmidt, representing some of the people from the Chamber of Commerce as well as businesses in the downtown area spoke in support of the proposal. He said that the visionary process had been wonderful and the leadership that they had could take this to the next level. He strongly encouraged the Council to vote yes, spend the money and get the project going.

Richard Kloster addressed the Council and said that he was not there to encourage the Council to vote yes; he was asking them to think very seriously about the money. He stated that he had read the documents and looked at the presentation and they were well done. He added that he e-mailed all of the members of the Council regarding his concern and he just wanted to elaborate a little bit. He said that while the figure was not to exceed \$39,000, when he read some of the documents they seemed to leave it "open ended." He added that he was not sure how they could enforce the \$39,000 (just deposit it and let Swaback Partners draw on it) or what they could do but it was an issue of concern to him. He encouraged the members of the Council to be very careful in terms of approving this and then finding there were shortfalls or other expenses that were not accounted for. He also questioned whether this was the time to be spending money but added that he was aware of the fact that the Council had approached the future with some caution in terms of not being aggressive. He said that while they would like to see some changes he would also like the Council to be realistic. He also expressed concern regarding copying other communities rather than creating something unique.

Robert James urged the members of the Council to vote against this proposal. He said that he believed in visioning but did not believe that they, as a Town, should grant a sole source contract for \$40,000 on the spur of



the moment. He said that this was a project that was already underway by another organization and would happen whether or not the Town decided to buy into it. He added that in the newspaper it stated that the money was not in the budget for this year or the proposed budget for next year so he would like to know where they were going to find the money. The paper went on to say that the Town Manager indicated that the monies would come from some economic development funds but said that that meant something else that was going to be done would be eliminated. He reiterated that he believed in visioning but did not believe that this was the time to do it or the way to do it. He asked the Council to vote against this proposal.

Frank Ferrara, Chief Executive Officer of the Fountain Hills Chamber of Commerce, addressed the Council and requested that the Council consider funding this out of the Economic Development Fund that was set aside several years back with help from the Chamber of Commerce. He stated that the Chamber was approached by the then seated Council and asked for assistance – the 4/10ths of 1% sales tax increase with 3/10ths going to the Mountain Preserve and 1/10<sup>th</sup> going towards economic development. He reported that the money had been accumulated and was not part of the General Fund or the budget process. He said that since the Chamber had already begun the process they were now asking the Council to please consider letting the Chamber and the Town finish this process so they would have something to look at for future consideration. He stressed that now was the time to move on this and they did not want to wait until an upswing occurred when everybody could come in and just do what they wanted. He emphasized the importance of a consolidated approach and urged the Council to help the Chamber by funding 3, 4 and 5 in the amount of \$39,000.

Jerry Kirkendall addressed the Council and stated that he had attended the meeting on this issue and some of the things he liked and some he did not. He said that he had some concerns right now and as stated, the stores should be facing the Avenue from the south side, which made a lot of sense, and they all said the downtown area could not be too big because we did not have the population for it. He added that there was so much commercial space now and noted that the main core was from Saguaro to La Montana, a two-block distance, which was a nice walking distance, but they would not get anything going until they had things on both sides of the street, like a movie theater. He said they also wanted to go down Verde River all the way to Palisades and he thought there should be lights and sidewalks all the way down but as far as that being the main core, they had not had money in 15 years to finish the Avenue. He said that if they put lights in the median they could have activities going on in the evenings but they could not even afford that. He agreed that they needed to do something but added that he was also a little afraid that they might be “jumping the gun.”

Mary Pilarinos discussed a recent article about the visioning process and read the following quote, “It always comes down to this ... who is going to pay for it?” She read another quote from the same person that said, “If the Town’s operating budget can be stabilized well into the future, then perhaps it would be easier to embrace a downtown vision.” She stated the opinion that it all came down to spending and asked where the money was going to come from and who was going to pay for it. Ms. Pilarinos referred to the Swaback article that she read and questioned the use of the word “intervention” and how it was being applied in this case. She added that Swaback’s plan was about doing 1,000 things well and asked if they had the money to do that. She noted that Swaback acknowledged that similar studies had been done in the past and they had been shelved and questioned what would make this one any different. She said that they were conducting a laboratory type experience and they all knew that things in a laboratory “can go poof.” She requested that the Council bear this in mind.

Art Tolis addressed the Council and said that he would like to take this opportunity to express his support for the Town Council’s funding of this additional \$39,000+ dollars as part of a joint venture with the Chamber. He said that his brother, an architect with Centerbrook Architecture in Connecticut, was shocked when he told him what was happening in Fountain Hills and how Swaback was part of a planning process for the downtown. He said that his brother indicated to him that the Town was dealing with one of the best firms in the world. He advised that Swaback had a track record of success in working with other communities and expressed the opinion that now was the time to really focus and make an investment in ourselves in the community. He noted that the Chamber of Commerce had already made the investment and the Town funding it with the economic development funds would be a joint partnership that would show not only the community but businesses that potentially would want to relocate and invest in our community that we were all vested in their success. He

added that this type of plan was going to be a critical component to any viable business entity coming to this community and actually getting the funding and support on the lending side to do it. He said that it was critical that the Council support this and move forward with the visioning process.

Mayor Schlum thanked all of the speakers for their comments.

Mr. Swaback indicated his willingness to comment on any of the speakers' remarks if the Council so desired and the Mayor encouraged him to do so.

Mr. Swaback referred to one comment, that "there didn't seem to be anything new and the firm was replicating what has been seen elsewhere" and said that the place where that was true was when they dealt with retailing. He added that if they were designing a corporate headquarters or country club where they were looking right at the user, they could be as different from anybody else as that user wanted to be. He added that when they were dealing with retailing, they had to not only design something that could be built and leased but that could stay leased. He noted that there was a whole body of behavior that did indicate that this was not the place to be terribly experimental. He said that they themselves said that no one needed another Kierland; one was fine. He stated that they know for certain that there are certain imperatives about retailing and if you violate them you probably won't have successful shops. He added that he would agree that there was some notion of standardization when you got to that level. He also discussed the comment made relative to "sole source non bid" and explained that that was extremely common for them – they did not bid on anything. Whoever put out a Request for Proposals could decide not to hire them but they were not bidding nor was it their experience that the best municipalities and corporations were looking to select someone based on their bid (it was a "value received" type of thing). He added that when they set a lump sum agreement, they kept track of all their hours but did not limit their work. In other words, when they knew that there was a job to be done if they were billing on an hourly basis, they charged for every hour, and if they were billing on a lump sum basis, it would be a rare case when they ever came out looking good on their own hours.

Mr. Swaback stated that the conversation about not being sure (likes some things, doesn't like other things) he believed was a perfectly good dialogue to have within the process but not one that would be a test as to whether or not they should keep working. He also provided a clarification on the "1,000 things done well" statement and said that he had made that statement and ironically enough he had used it in Mountain Park Ranch where he said, "We don't have the world's tallest fountain or the London Bridge but all we can do here is 1,000 things well" (in other words there was no "big hit" or "grand slam.")

Councilmember Hansen **MOVED** to approve the Town's financial participating in funding Phases 3, 4 and 5 of the Swaback proposal of January 2009, for a Master Plan of the Town's Downtown area in an amount not to exceed \$39,176 and Vice Mayor Archambault **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

Councilmember Dickey stated that she appreciated what some of the speakers had said about the importance of being cautious during these difficult economic times but added that it was also not a time to be paralyzed. She noted that there was a Town Hall held on this type of issue (investment in the future, GPEC, etc.) and Michael Bidwill and others had spoken about urgency and green industry. She said that although she really did appreciate being cautious she did not want to be paralyzed with fear. She also discussed goals established by the Council such as walkable and safe communities as well as small Town ambiance, events, etc. She asked whether in this instance the RFP process would be precedent setting (we just kind of take over something that had been started) and said she also wanted to talk about the \$80,000 that was budgeted for this year for this particular downtown. She stated that perhaps they thought that they had a project going and they spent a lot of staff time on that project so in her opinion it was kind of a continuation of that kind of a use of those funds (so she wanted to know about the RFP). She also wanted to know where they begin to start thinking about more specific ideas like making signs more than directional. She stated that she had spoken to some people about perhaps developing a "history walk" or a plaque – something that made people want to go through – perhaps something that had to do with nature. She questioned when that phase came into play (when they were making

it something different and determining what constitutes a “draw.”) Councilmember Dickey advised that her last question had to do with the actual relationship between going ahead with this and finding a buyer for the property that would like to develop it.

Mr. Swaback readdressed the Council and said as far as “when this gets to be special in the planning process,” the firm already believed that the Town had something special – the whole park, the lake and the Fountain and stated that they did not have to repeat that. He added that what they did have to do was dramatize and frame it because if that was the “solo,” how did they create the “accompaniment” that played off of that? He advised that they would have drawings that he hoped would be “mouth watering and tantalizing” but cautioned them to remember that they would not be doing the drawings as though they were doing them for a client – they were doing them (so to speak) to “attract the honeybee that came and pollinated the flower with its tail.” He said that he hoped that the drawings would guide the actions of others and that was different than having a commission to do a building. He noted that up until now they had been speaking “to” the Town and the documents when they were finished they would be speaking “on behalf” of the Town. He added that these would serve as a series of tools that were designed to magnetize the kind of things that the Town has said they would like to see happen. He advised that the only place where they would “dig in their heels” was to not try to magnetize things that just were not likely to happen and if they did happen they probably would not work. He said that they knew that people wanted a movie theater and that they would like a movie theater too, but the only discipline that they wanted to put on this is the best judgment that any of them could put on it in terms of what was most realistic, most likely to happen. He added that however visionary it was, they could really stretch it but it had to be something that had a good chance of working for the long term. He explained that it was the difference between designing a corporate headquarters where the only thing that mattered was that the entity purchasing it was happy and talking about uses that someone else was going to operate because they had to be on their terms or it would not work.

Councilmember Dickey asked how that tied in as they could not force someone who bought the property to do something. She said it sounded like it was a tool to attract somebody because they would see something that they liked but you obviously could not force them to do that. She added that they could encourage people to try and develop something that would be appropriate and most likely successful (like a smaller movie theater in the Town) but again, no one could be forced to do what they were being asked to do.

Discussion ensued relative to the fact that Fountain Hills is a very special place and different types of things were going to keep coming into the community; the importance of getting themselves on the top of the list of places that somebody might want to consider; the fact that most of the company’s work was for the kinds of people who might come to Town; Town Attorney Andrew McGuire’s explanation of the contract and the fact that he was comfortable with saying that the Town should go with an exclusive service contract and the fact that some written contract or memorandum of understanding would be required according to the Town Code and he is not sure yet whether that would be with Mr. Swaback’s firm or with the Chamber of Commerce, but the details would be worked out.

Councilmember Leger expressed the opinion that confusion existed relative to how the contract in process was working and said that the local newspaper was wonderful and accurate most of the time but sometimes it contained some information that mislead the public. He said that he has often received e-mails based upon what people read in the newspaper and for the most part it was accurate but there were a lot of pieces that were missing. He added that it was his understanding that the Swaback firm was currently under contract with the Chamber of Commerce and the Town had been a partner with the Chamber in this process from the beginning. If the Town were to share in the responsibility for completing the project, they would then be supporting the project, allocating funds and going through the Chamber. He noted that the Town Manager operated in the area of contracting and requested that he provide a clarification regarding this issue.

Town Manager Rick Davis advised that the end product of this process would be a dynamic tool that staff could use to generate interest in the community. He added that the culmination of this process obviously was the codification of certain aspects, a division into potentially the Town’s General Plan and other documents (Code,

etc.). He emphasized that it was critical if they are going to be successful in building a retail base and building a downtown area, that when they were approached by a developer, that they were not only able to show them what the Town expected, but they were also made to understand that the obstacles or procedures that they would have to hurdle in the process of bringing something into the Town that we very much wanted had already been addressed by the Town Council. He said that was why following through with the plan into implementation was so very critical.

Additional discussion ensued relative to the fact that the Town Manager would take direction from the Town Attorney relative to the arrangement; the fact that staff understood that a contract currently existed with the Swaback Partners and possibly a Memorandum of Understanding (MOU) with the Chamber could be utilized; the Town Manager's statement that they view this contract as a sole source provider situation and the fact that the MOU could possibly be with the Chamber and that the Town could stipulate as to what degree it was going to participate as far as the remainder of the contract; and Mr. McGuire's statement that staff would work out the various details regarding whatever contract was needed.

Vice Mayor Archambault commented on the fact that Swaback Partners finally made it to Fountain Hills and welcomed them to the community. He said that they had mentioned that they really did not come to conclusions with the work that they do but that they provided a tool. He asked if the tool was for directing development.

Mr. Swaback replied that they would hope that it would be very magnetic and would attract the kinds of things that the Town would like to see happen. He added that they would also like to think that their input could revise some of the Town's codes and ordinances where appropriate. He said that if someone came in with an unanticipated use in the future but it was a desirable use, the Town would have a fabric with which to decide where that use might go and how it might change business relationships around it. He noted that it was operating with a sense of the end in mind and added that when they said they were not going to provide the Town a specific plan that was a strength and not a weakness.

In response to a question from the Vice Mayor, Mr. Vern Swaback stated that Phase 5 was where they put everything into its final visual form and would be helping with the Town's people for work that staff might continue on with in terms of revisions to ordinances or standards that might stand in the way. He added that the Phase would also include public testimony and involvement.

Mr. Barnhardt provided the Vice Mayor with a brief overview of Phases 3, 4, and 5 in response to his request.

Additional discussion ensued relative to the creation of foot traffic and the creation of a bond between both sides of the street; the fact that the Town's Economic Development Administrator was currently out of Town attending a conference and she and the Chamber would use this tool when it was done to be proactive in bringing in the "right kinds of businesses"; the fact that perhaps at the Administrator's next conference, she would have a packet to distribute regarding Fountain Hills that would generate possible candidates; the Vice Mayor's comment regarding the fact that he was very comfortable that the study they were doing now would not just sit on a shelf and his excitement regarding being proactive in this important area; Ms. Ghetti's response to a question from Councilmember Contino relative to where the money to pay for this was coming from (the money was to come out of a fund that was dedicated for economic development and would not come out of the General Fund). Currently there was approximately \$1.5 million in that fund and there was a budget appropriation of approximately \$80,000 (monies that were unencumbered).

Councilmember Brown spoke in strong support of proceeding with the process and stated the opinion that they would miss out on a great opportunity and would do a great injustice to the Town if they did not have a map that they could take to the developers. He stated that knowing what was going to be built beside you was helpful.

Councilmember Hansen said that for 20 years, Fountain Hills "just sort of sat here" and only got up to about 5,600 people by the time they had incorporated. She added that incorporation was the first catalyst that took place and then the Town started paving streets, got a K through 12 school, and things started to happen. She

stated that since that time they really had not had anything to say about the way things happened. She said that she viewed this as the second big catalyst that would move Fountain Hills up big step.

Councilmember Leger said it was interesting to watch people's reaction when the Council talked about spending money during these difficult financial times and stated that he was as concerned about spending money as the next person. He added that the citizens who spoke this evening made some very good points. He noted that municipal financing was a "really strange duck." He noted that they would not be using monies that could be used to build a fire station or other General Fund expenses – the money being used had been dedicated specifically for this purpose. He said that from his perspective, the contract did not "end when it ends" but rather "begins when it ends" and the sky was the limit in terms of how much time they had to dedicate to this particular project. He pointed out that a lot of money had been invested in an effort to be responsive to the business community by hiring a full time Economic Development Administrator and the first thing she said was "We do not have a portfolio" – nothing to sell and nothing to market – but we do have tremendous potential as a Town. He emphasized that this was an opportunity that they could not pass up and challenged anyone to find a price more competitive than the price they were looking at for this particular process. He noted that a process like this usually costs approximately \$250,000. He added that this was all about the Town's future and it begins when this process is delivered to the Town.

Mayor Schlum expressed the opinion that the partnership with the Chamber was another great step in continuing to cooperate with businesses and enhancing vitality. He said that from what he has seen, Swaback was going to leverage what made the Town special and unique (not another Kierland). He stated that what stood out for him initially was the fact that the Town did not own the land; in fact, the Town owns very little land downtown – it was mostly privately owned and that was something that had been addressed tonight. He said that this plan was going to give them the vision for the downtown area that they did not have today and added that he envisioned this as something that would empower the current landholders that might wish to sell and make more money and empower existing business owners to create something that was part of the overall vision. He emphasized that Swaback Partners had done their homework to create an overall vision that would work together and make everything more valuable (they were working on connecting downtown with Fountain Park). He commented on the fact that Swaback Partners was a world class firm and the process would not happen overnight but once it had been done, the Town would be all the better for it and it would help attract the type of development that would be viable in Fountain Hills.

The motion **CARRIED UNANIMOUSLY** (7-0).

Councilmember Hansen reminded everyone that there had been a public meeting scheduled for last night but that it had been postponed. She added that another date had not been identified but information would be forthcoming on the rescheduled meeting date. She encouraged citizens to attend the meeting.

Mayor Schlum thanked Councilmember Hansen for her comments.

(The Mayor declared a brief recess at 8:59 p.m. and the meeting reconvened at 9:03 p.m.)

**AGENDA ITEM #7 – CONSIDERATION OF RENEWING THE PROPOSED CONTRACT BETWEEN THE TOWN OF FOUNTAIN HILLS AND RURAL METRO FOR FIRE AND EMERGENCY SERVICES FOR A FIVE-YEAR PERIOD BEGINNING JULY 1, 2009 AND ENDING JUNE 30, 2014, AND THE EXPENDITURE FOR FY 2009-10 IN THE AMOUNT OF \$2,852,368.00 FOR FIRE AND EMERGENCY SERVICES.**

Mr. Davis addressed the Council relative to this agenda item and stated that the process of reviewing some of the Town's options relative to fire protection in Fountain Hills began back in August 2008. He reported that on January 13, 2009, the Fire Services Committee presented findings to the Council and recommended that the Town continue a contractual agreement with Rural Metro. The Council subsequently authorized the Committee

to negotiate a contract with Rural Metro and that process began in March 2009, with the objective of developing a five year agreement to address fire protection services in Town.

Mr. Davis provided a brief overview of the excellent services provided by Rural Metro and commented on the fact that the citizens are generally pleased with the services they receive from Rural Metro. He added that the Town does consider them to be the Town's fire department and they are very proud of it. He said that the Town looks forward to continuing its relationship with Rural Metro. He noted that some of the substantive changes or additions to the contract before the Council includes a reduction in the contract cost (\$175,000 lower than last year). Mr. Davis added that the contract is also more than \$300,000 than what would have been incurred if the contract had followed along its historic path (a 5% increase over last year's cost). He stated that they are looking at a significant in the costs associated with fire protection. He pointed out that there is a 3% annual escalation as opposed to the previous 5%, addition of a substation at Shea, which is in progress, a commitment to address communication deficiencies as identified, which is already in progress and the re-write of Exhibit E that provides more flexibility to the Chief with regard to distribution of manpower without diminishing the amount of manpower that it dedicates to the Town.

Mr. Davis commented that in summary this was a five-year agreement beginning July 1, 2009, and ending June 30, 2014. There was a two-year notification clause if Rural Metro desired to terminate, a one-year notification if the Town desired to terminate and parties may mutually extend the agreement for two two-year periods. He welcomed Rural Metro Fire Chief Dan Caudle from and the Town's own Chief, Scott LaGreca to the meeting and said that they would be happy to respond to questions from the Council. He also recognized the participation of Councilmember Contino, Vice Mayor Archambault, and Councilmember Dickey as members of the Fire Services Committee and staff who worked very hard (Joan McIntosh and Julie Ghetti) and the Chair of the Public Safety Commission, Mr. Larry Moyse. Mr. Davis requested Council approval of the proposal.

Mayor Schlum thanked Rural Metro for working with staff and the Committee to reduce costs and deliver better services (addressing some of the deficiencies that had been previously noted, particularly in the Eagle Mountain area).

Councilmember Contino **MOVED** to approve the proposed contract between the Town of Fountain Hills and Rural Metro for Fire and Emergency Services for a five-year period beginning July 1, 2009 and ending June 30, 2014 and the expenditure for FY 2009-10 in the amount of \$2,852,368.00 for fire and emergency services and Councilmember Hansen **SECONDED** the motion.

Town Clerk Bev Bender advised that there were no citizens wishing to speak on this agenda item.

The motion **CARRIED UNANIMOUSLY** (7-0).

**AGENDA ITEM #8 – PRESENTATION AND CONSIDERATION OF RESOLUTION 2009-16, ADOPTING THE MAXIMUM AMOUNT FOR THE TOWN OF FOUNTAIN HILLS' FISCAL YEAR 2009-10 TENTATIVE BUDGET WITH APPROPRIATE DIRECTION TO PUBLISH SAID DOCUMENTS IN ACCORDANCE WITH STATE LAW. THE COUNCIL MAY ADDRESS ANY OR ALL ITEMS CONTAINED IN THE BUDGET DOCUMENT AND INITIATE ANY SUGGESTION CHANGES PRIOR TO THE ADOPTION.**

Mr. Davis and Deputy Town Manager Julie Ghetti addressed the Council. Mr. Davis stated that staff is pleased to present the Fiscal Year 2009-2010 annual budget for the Town of Fountain Hills. He said that this had been one of the more transparent and collaborative processes that the Town had taken in recent years because of public participation and the utilization of an Executive Budget Committee comprised of the Mayor, Ms. Ghetti, Ms. Martin, Ms. McIntosh, Ms. Williams and himself. He noted that the Council's Strategic Planning Goals had been incorporated into the budget and he thanked the Council for the time they had spent with staff during two Retreats to begin formulating the Council's goals that was to serve as a platform or foundation for this budget. He noted that General Fund revenues were down 9% from the last Fiscal Year, expenditures were down 10%

from last Fiscal Year and overall revenues were up 29% from the previous Fiscal Year with the addition of potential grants and stimulus funding. He said that they needed to anticipate receiving those grants and added that by adopting the maximum amount this evening they were then able to expend those funds in the event that they realized those grants. He added that overall expenditures were up 25% for the same reasons (large capital projects such as Shea Boulevard, Fire Stations, etc. that would increase the budget over last year).

Mr. Davis commented on the goal-setting Retreats that were held as well as public open houses and a Mayor's Town Hall Meeting where the budget was addressed and stated that those meetings had brought them to this point – to adopt the maximum expenditure limit and the tentative budget. He added that in June they would hold the final public hearing and adoption of the budget. He pointed out that 13 goals had been identified and budgetary impacts of implementing those goals had been discussed. He informed the Council that they had transitioned to a program based budgeting format and it was a little different from what the Council had seen in the past. He noted that the expenditures that would be presented this evening incorporate some of those costs that in the past because they were on a different kind of system and had different software, etc. might have been left by the wayside and not included in the calculations. He said that these included the Town's own internal labor costs to bring some of these things forward.

Mr. Davis emphasized that the budget was not just a collection of numbers; it was the primary policy statement of the Town Council for the year and therefore staff felt it necessary to make sure that they addressed all 13 goals and would be happy to report to the Council on a quarterly basis as they have done in years past progress towards realization of those goals. He said that staff's goal was to have some significant direction from the Council this evening and encouraged Council feedback all the way to the end of the Fiscal Year.

Ms. Ghetti and Ms. Martin addressed the Council and briefly highlighted the PowerPoint presentation for the Fiscal Year 2009-2010 proposed budget.

Ms. Ghetti explained that with some of the initiatives that staff was proposing with this budget that they were looking for some direction from the Council as to whether they wanted staff to move forward on this or not. She discussed that they did not include a proposal to amend the Town's financial policies as previously discussed to reclassify a portion of the General Fund fund balance, which was the savings account, and classify it as a "Rainy Day Fund." She said that meant staff would bring back to the Council a proposal in a resolution to make that change. It did not mean that they would spend the "Rainy Day Fund" – it just meant they would put it in the budget as a separate fund to be used in the case of an emergency. Also, there were stimulus and grant funds that were programmed in to provide about \$4.8 million for projects and staff was proposing to put before the voters a question to authorize \$4.5 million in road bonds for major road improvements, specifically Saguaro Boulevard.

In response to a request from the Vice Mayor, Ms. Ghetti confirmed that information on the "Rainy Day Fund" could be found on Page 70 of the budget. She noted that it was not shown as a revenue or an expenditure because it was neither but it was shown in the summary.

Additional discussion ensued relative to the consolidated fee schedule that would be adopted and included in the budget and posted on the website; fees that were being proposed including a franchise fee on utilities, a stormwater utility fee, an increase in telecommunications sales tax rate, liquor license application fees, revised development fees based on IIP and leasing space in Town Hall; the benefits realized as a result of the new software, proposed revenues and expenditures; an explanation of program budgeting; revenues/all funds; expenditures/all funds; operating budget highlights – sources of funds – General Fund and where the money comes from; uses of funds – General Fund – and where the money goes; the General Fund Operating Budget reduced levels of service including no merit or cost of living increases programmed; no overseeding in parks other than Fountain Park; mowing of turf reduced by half (except in Fountain Park); palm tree trimming eliminated except in Fountain Park; fleet reduced by 10 pieces of equipment; Fountain preventative maintenance delayed; print issues of AveNEWS reduced to 4; wash maintenance delayed, and annual pavement management reduced; individual department budget highlights; Highway User Revenue Funds (HURF); capital projects; a debt service schedule; tax levy for bonds and where do they go from here: following approval of the tentative

budget this evening as the final budget with staff and Council proposed changes and establishing the maximum, the Council will adopt the final budget on June 4<sup>th</sup> to allow enough time to approve a tax levy on June 18<sup>th</sup>. State law requires a period of at least 14 days between adoption of the final budget and adoption of the tax levy.

In summary, Ms. Ghetti advised that:

- All funds are balanced
- Council and strategic goals framed proposed budget
- Increased reliance on outside funding sources for capital projects
- Service level cuts were made that affect maintenance of infrastructure but should have minimal short-term impact on residents

Ms. Ghetti responded to a variety of questions from the Council including but not limited to the following:

In response to a question from the Vice Mayor, Ms. Ghetti advised that moving some funds into a “Rainy Day Fund” actually improved the Town’s bond rating because it showed that the Town was preparing for emergencies and had a sufficient (30%) fund balance, including the “Rainy Day Fund.” Ms. Ghetti provided a brief explanation of how the “Rainy Day Fund” would work for the benefit of the citizens. She said that the goal would be to have a sufficient amount of funds to supplement the operations of the Town (they would not just keep adding to it to make it grow).

Councilmember Dickey commented on the fact that the Town had an overall spending cap and Ms. Ghetti concurred and said that the amount was \$28 million every year. She added that there were also exemptions from that such as grant funds, bond funds and HURF funds. She said that there was no limit on how much revenue the Town could bring in.

Ms. Ghetti responded to questions from the Council relative to the various fees and explained that the Stormwater Utility Fee would probably be two years or more out and that a study must be conducted. She said that the Town’s new software would greatly assist in this process. She added that the Franchise Fee would require a vote and if the Council decided to put that before the voters, the Town Clerk would have to notify the County of the Town’s intent. She estimated that the Franchise Fee would result in approximately \$500,000 to \$600,000 and the Stormwater Utility Fee would be a recovery fee so she was not sure what that would amount to. She advised that the Telecommunications Sales Tax’s current rate was 2.6% and several cities and towns charge 4%. She said that if the Town increased that fee to 4% it would result in an additional \$600,000 per year. She requested input relative to the fees.

In response to a question from Councilmember Dickey, Ms. Ghetti advised that staff did not budget anything next Fiscal Year for a Stormwater Fee study or anything of that nature. She stated that staff would begin to do the work to put that program together and then come back in 2010-2011 if they needed to pay a consultant. She said there was nothing budgeted other than staff time to put the program together.

Mayor Schlum said he did not like the Stormwater Management Act’s additions to the Clean Water Act at all and would prefer that Congress clean it up for desert states such as ours. He added that there were costs that they were going to have to absorb due to Federal mandates and that was one that he could justify but the other items seemed to him to be things to consider because of a lack of revenue in the Town. He said he was not excited, particularly during this economy, about implementing those items at this time. He added that the Liquor License Application Fee seemed to make sense because they seemed to be a mill for liquor license applications because the Town did not charge a fee and other municipalities do. He stated that he would also like to recuperate costs on Stormwater Utility fees but somehow have the study be as inexpensive as possible or determine a fair way to assess that fee (consider various methods). He said that apart from the Stormwater Utility Fee, Liquor License Fee and Revised Development Fee that was underway he was not in favor of move forward on the other items at this time.



Ms. Ghetti advised that there is one that should be on there, the bond for the roads, and said that it required a vote of the people (Saguaro Boulevard/\$4.5 million) and the Mayor stated that when the Council previously discussed this item they were in favor of having it as an option and maybe considering it in a budget just in case they needed to move in that direction. The Mayor asked when the County would have to be notified that the Town wanted to place the item on a ballot and Mr. McGuire responded that the deadline date is July 6<sup>th</sup>.

Vice Mayor Archambault expressed the opinion that they should move forward with the Stormwater Utility Fee, they needed to take a look at the Telecommunications Sales Tax, the Liquor License Fee, Revised Development Fees, and get the bond issue before the voters for the road. He said that that was very important infrastructure – a main artery in the Town – and if they start letting that fall apart it would be a big mistake. He stated that they had to let the voters decide on that issue and added that perhaps they could lessen the impact on that by providing some additional funding and perhaps not ask for the \$4.5 million, ask for less if they could identify some funding. He commented on the Franchise Fee for Utilities and asked if that had to go before the voters as well and Ms. Ghetti said that it did. The Vice Mayor said that the voters could decide on that issue as well if that was the case.

Mr. McGuire advised that all bond issues had to be voted on in November.

Councilmember Dickey commented on the Franchise Fee and asked if that was tied to any use when it went out for a vote.

Mr. McGuire advised that the Franchise Fees were essentially just a fee on the use of the right-of-way so it was a charge rather than a specific targeted fund for something. He said that there would be separate questions on the ballot. He noted that election costs were borne by the franchisees.

Councilmember Dickey stated that if they had both issues on the same ballot they would be able to offset some of the election costs for the bond.

Mr. McGuire explained that they would have to determine exactly what the fair share to be allocated to each one (utility) should be. He added that it would offset some of the cost at the same election but it would not necessarily offset the cost of the bond election in November (separate costs associated with that).

Councilmember Dickey said that she agreed with the Vice Mayor as far as going ahead and putting that out there (bond issue for the road). She noted that these were voter opportunities to weigh in on and that she would also be in favor of the Stormwater Utility Fee.

Mayor Schlum commented that it was his understanding that the Stormwater Utility Fee would not have to be placed on a ballot and Mr. McGuire replied that staff had not fully explored that issue. He pointed out that the City of Flagstaff did this recently without a ballot initiative but he was not certain that the Town had the same authority they did. He said that he would research this further and report his findings.

Councilmember Leger asked whether the Telecommunications Sales Tax required voter approval and Mr. McGuire responded that the tax was actually not a franchise; it was a license. He added that more information was required before the Council could make a decision on this issue and asked whether the Council would like staff to move forward and obtain the additional information.

Councilmember Leger stated the opinion he hoped that the matter would require minimum research. He noted that the Council has been presented with a menu of choices and commented that he needed to know all of the associated implications prior to making decisions. He advised that he was not prepared this evening to say “thumbs up or thumbs down on any of these” but just in general, if they went to the voters asking for \$4.5 million, philosophically he wanted to take everything else off the table. He added that if they were successful there, great and if they were not successful there, that’s where he wanted to know how the others would apply (vote or non-vote). He added that if the bond failed and State Shared revenue was cut, and they could see the

writing on the wall, then he would probably want to pull the lever on that which could be expedited the soonest. He said that was why it was important to know what issues required a public vote. He stated that he did not want to nickel and dime the public particularly given the economic outlook and added that he was even a little leery about going for the \$4.5 million on the bond. He commented that it looked like the Liquor License Application Fee was pretty much in motion because it was on the fee schedule. The Revised Development Fees were in motion. He said that as far as leasing space in Town Hall, that would not be a major source of revenue but it would also not be a burden on the citizens if they decided to do that.

Ms. Ghetti advised that the increase in the Telecommunications Sales Tax did not require a vote of the people; a vote of the Council would suffice.

Councilmember Hansen said she had a concern that if they went for a bond for the street (Saguaro), that could "kill" the \$4.5 million. She added that she believed that the School was going for an override as well so that needed to go into the mix. She agreed that it could be a shared ballot, which would help reduce the costs as well (shared election costs with the School District).

Mr. Davis stated that he believed he was hearing from a majority of the Council that they were in favor of addressing the Saguaro issue with a bond initiative but they would like to keep the ballot clear of any other tax initiatives and the Mayor agreed with Mr. Davis' summation.

Mr. Davis commented that this did not mean that they could not address this in the future and added that he believed staff had received some clear direction.

The Vice Mayor said that a Stormwater Utility study took a few years to conduct and he was not sure what the Council's direction was on that particular issue.

Ms. Ghetti stated that her understanding was that they would move forward with preparing the groundwork because there was a lot of staff time involved but there was time to determine whether it required or did not require a vote of the people.

Vice Mayor Archambault commented that because it took so long, he would like the Council to move forward on that to find out what the expenses were as well as the implications. He said that if they did not do the study now, they might have to do it later and if it was a number that was fairly high, it might be something that they want to address.

Councilmember Dickey said that she thought they had decided to move ahead with that.

In response to a question from the Mayor, Ms. Ghetti advised that nothing had been budgeted specifically for any outside consulting work. She added that there was no budgetary impact; staff would just start moving forward in that direction. The Mayor agreed that staff should move forward as discussed.

Ms. Ghetti responded to a variety of questions from the Council relative to the individual departmental budgets.

Councilmember Contino stated that he would hate to see any layoffs take place in the streets, parks and facility maintenance departments and recommended that the senior staff start taking some days off without pay to help the budget and allow people to keep their jobs.

Ms. Ghetti advised that everything was on the table. She noted that the proposed budget was just a plan and they really did not know how revenues were going to come in next year so they had to be prepared to make whatever changes were necessary to match the revenues that were received. She added that if they received less revenue that meant they would spend less because they could not spend more than what was taken in. She stressed that every idea was being considered and hopefully they would not have to do that, but whatever they had to do to bring the budget into line was what staff would do.

Councilmember Hansen questioned what was covered under the \$9,544 budgeted for the League of Arizona Cities and Towns (memberships, conferences, etc.?) and said she did not know how much the booth costs but perhaps they should look at suspending that for a year in an effort to reduce the conference cost. She added that perhaps their one-on-one's could be for coffee instead of for lunch. She said they might want to consider doing some of these little things as well.

Mr. Davis informed the Council that every other month those meetings would occur at Town Hall and Shaunna would be making those arrangements for them. Mr. Davis asked whether Councilmember Hansen was referring to the booth at the Festival of the Cities and she said she was. Mr. Davis stated that he did not believe they had any funds budgeted this year to participate in that event. Mr. Ghetti reported that the funding was for the Council's league conference registration (i.e. hotel, mileage and food).

Discussion ensued relative to Court wages and salaries and the fact that the higher number included all of the benefits; all of the items that were included under media relations; Ms. Ghetti's opinion that the Town was not recovering the cost of the Sales Tax Auditor and said that she did not believe they would ever recover all of the money from residential audits because they were labor intensive but they did recover more than \$42,000 on the other sales tax audits; the fact that the Town had collected approximately \$90,000 this year on general audits (paying for itself); previous discussion that occurred relative to the four additions of the AveNEWS and not mailing them (just having them available in the kiosks); Mr. Davis' understanding from Ms. Decker that the publications would be available in the kiosks at various locations and that for the most part distribution would be electronic except for the four editions that were to be mailed out); the fact that the electronic publications would be available on a monthly basis and there was a link on the website where citizens could obtain more regular news updates; the fact that the Town was still doing "In the Loop;" Councilmember Leger's suggestion that they reduce the number of AveNEWS publications to two a year based on the fact that other options now existed (electronic copies, copies at the kiosks, etc.); the Vice Mayor's comments relative to the fact that they were trying to transition and possibly next year reduce the number of publication mailings down to one a year or none at all; the fact that when surveyed most people leaned towards receiving electronic copies; the addition of a flash element to the website, website/software maintenance and efforts to develop more drop down menus and conduct on-line surveys; the fact that contingency funds for litigation settlements were included in the budget under the Capital Projects fund; the fact that the Town had to pay MAG \$25,000 for the census; the fact that the figure for the recycling bins was based on current usage; Councilmember Hansen's reference to Page 115 that showed zero under mowing/landscape maintenance costs and the fact that staff had reclassified it and placed the item under another account number (land maintenance/part of the Park's programs); Councilmember Hansen's suggestion that staff add a sentence explaining the change; Mr. Davis' comment that for the line items that have had a shift because of the way they were budgeting now (or for whatever other reason) staff would provide an additional page or summary of those major changes; Senior Transportation Services (STS) and the fact that although they could not replace STS there were some other alternatives including the use of the volunteers that staff and the Senior Commission Chair would bring before the Council in the near future; Councilmember Leger's comments relative to the three sidewalk projects (two of the three are pretty much in motion and two he viewed as public safety initiatives because they were in school zones) and one particular project that caught his attention, S6046, the sidewalk project on Fountain Hills Boulevard from Shea to Crystal Point, and his request that the Council consider delaying the project because there seemed to be "so many balls up in the air for funding" that he would question whether they should be designing to put sidewalks in place; Mr. Ward's opinion that Councilmember Leger's point was well taken and that a lot of projects were going on; the fact that the money they were seeking was for design and the fact that this was a grant project; Mr. Ward's statement that they could request an extension on the grant, hold off on the design for a year and wait and see what happened next year; Mr. Ward's opinion that it did make sense to find out

what they were going to do with the pavement before they paid so much attention, time and money on the sidewalks first; waiting to see what happened as far as the stimulus/discretion funds; Councilmember Leger's suggestion that they delay this particular sidewalk project and the fact that the Town would be required to spend \$130,000 for design costs (the grant is for \$300,000 and the overall cost would be \$3.7 million); Mr. Ward's suggestion that he and staff pursue another grant for the construction as well (Fountain Hills Boulevard from Shea up to Crystal Point); the Mayor's opinion that it made sense to hold off on this item as long as they could extend the grant and Mr. Ward's statement that the grant could be extended for one year and the Council's concurrence with Councilmember Leger's recommendation and the fact that \$130,900 would come out of the capital budget.

Vice Mayor Archambault stated that some citizens had asked him what happened if the Town received much more stimulus monies or grants than anticipated and said that obviously they had some very worthy projects that the monies could be spent on.

Mr. Davis noted that staff did their best to anticipate what revenues they were going to get and noted that on the expenditure side they were limited in this State in that they had to anticipate every possibility and that was a difficult task to accomplish. He noted that the Council was going to make a commitment tonight on what they were going to spend and that was why there were projects in there that were contingent upon the Town's ability to obtain grant revenue. He said that someone once told him that, "you never do the budget on a sunny day," and so they underestimated revenues and overestimated expenditures. He summarized by saying that they would not be able to spend more money than they made a commitment to spend.

In response to a question from the Mayor relative to highway re-authorization (potential funding attached to the Federal bill), Mr. Davis advised that staff has made application through Representative Mitchell's office for Federal Highway money. He explained that these funds became available on a five-year cycle and staff submitted for two projects (one for Shea and one for Fountain Hills Boulevard) in the amount of approximately \$20 million. He advised that if the Town received \$20 million in Federal Highway funds, those were not projects that they would be able to do in this coming Fiscal year.

Mayor Schlum thanked Ms. Ghetti, Mr. Davis, the members of the Committee and staff for their excellent hard work on the budget.

Vice Mayor Archambault **MOVED** to approve Resolution 2009-16, adopting the maximum amount for the Town of Fountain Hills' Fiscal Year 2009-10 tentative budget in the amount of \$35,284,672 and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

#### **AGENDA ITEM #9 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER**

Items listed below are related only to the propriety of (i) placing such items on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council.

A. *NONE*

#### **AGENDA ITEM #10 – SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE TOWN MANAGER.**

**AGENDA ITEM #11 - ADJOURNMENT**

Councilmember Contino **MOVED** to adjourn the meeting and Vice Mayor Archambault **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0). The meeting adjourned at 11:04 p.m.

**TOWN OF FOUNTAIN HILLS**

By \_\_\_\_\_  
Jay T. Schlum, Mayor

ATTEST AND  
PREPARED BY:

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Executive and Regular Session held by the Town Council of Fountain Hills on the 21st day of May 2009. I further certify that the meeting was duly called and that a quorum was present.

DATED this 18<sup>th</sup> day of June 2009.

\_\_\_\_\_  
Bevelyn J. Bender, Town Clerk